

HOUSE BILL NO. 296

INTRODUCED BY L. JENT

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT AN INSURER PAY COSTS AND ATTORNEY FEES FOR DENIAL OR TERMINATION OF MEDICAL BENEFITS THAT ARE LATER DETERMINED COMPENSABLE BY THE WORKERS' COMPENSATION COURT IF THE COURT DETERMINES THAT THE AWARD OF COSTS AND ATTORNEY FEES IS APPROPRIATE; AMENDING SECTIONS 39-71-611 AND 39-71-612, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-611, MCA, is amended to read:

"39-71-611. Costs and attorneys' attorney fees payable on denial of claim or medical benefits or termination of benefits later found compensable. (1) For benefits other than medical benefits, the insurer shall pay reasonable costs and attorney fees as established by the workers' compensation court if:

(a) the insurer denies liability for a claim for compensation or terminates compensation benefits;
(b) the claim is later adjudged compensable by the workers' compensation court; and
(c) in the case of ~~attorneys'~~ attorney fees, the workers' compensation court determines that the insurer's actions in denying liability or terminating benefits were unreasonable.

(2) A finding of unreasonableness against an insurer made under ~~this section~~ subsection (1) does not constitute a finding that the insurer acted in bad faith or violated the unfair trade practices provisions of Title 33, chapter 18.

(3) For medical benefits, the insurer shall, if the workers' compensation court orders, pay reasonable costs and attorney fees as established and ordered by the workers' compensation court if:

(a) the insurer denies liability for a claim for medical benefits or terminates medical benefits and the medical benefits are later adjudged compensable by the workers' compensation court; or
(b) the insurer denies liability for a claim for medical benefits or terminates medical benefits and the dispute regarding medical benefits is later settled less than 30 days prior to the scheduled date of hearing before the workers' compensation court.

(4) An insurer may not seek reimbursement or contribution from a health care provider for any costs

1 or fees awarded pursuant to this section.

2 (5) For purposes of this section, "medical benefits" means those benefits that are to be furnished
3 pursuant to 39-71-704."

5 **Section 2.** Section 39-71-612, MCA, is amended to read:

6 **"39-71-612. Costs and ~~attorneys'~~ attorney fees that may be assessed against insurer by workers'**
7 **compensation judge.** (1) If an insurer pays or submits a written offer of payment of compensation under chapter
8 71 or 72 of this title but controversy relates to the amount of compensation due, the case is brought before the
9 workers' compensation judge for adjudication of the controversy; ~~and, If the award granted by the judge is~~
10 ~~greater than the amount paid or offered by the insurer, a reasonable attorney's fee and costs~~ and attorney fees
11 as established by the workers' compensation judge if the case has gone to a hearing may be awarded by the
12 judge in addition to the amount of compensation.

13 (2) An award of ~~attorneys'~~ attorney fees under subsection (1) may ~~only~~ be made if it is determined that
14 the actions of the insurer were unreasonable. Any written offer of payment made 30 days or more before the
15 date of hearing must be considered a valid offer of payment for the purposes of this section.

16 (3) A finding of unreasonableness against an insurer made under ~~this section~~ subsection (2) does not
17 constitute a finding that the insurer acted in bad faith or violated the unfair trade practices provisions of Title 33,
18 chapter 18.

19 (4) (a) For medical benefits, the insurer shall, if the workers' compensation court orders, pay reasonable
20 costs and attorney fees as established and ordered by the workers' compensation court if:

21 (i) the insurer pays or submits a written offer of payment of medical benefits under chapter 71 or 72 of
22 this title but there is controversy related to the amount of benefits due;

23 (ii) the case is brought before the workers' compensation judge for adjudication of the controversy; and

24 (iii) the award granted by the judge is greater than the amount paid or offered by the insurer.

25 (b) A written offer of payment made 30 days or more before the date of hearing must be considered a
26 valid offer of payment for the purposes of this section.

27 (5) An insurer may not seek reimbursement or contribution from a health care provider for any costs
28 or fees awarded pursuant to this section.

29 (6) For purposes of subsection (4), "medical benefits" means those benefits that are to be furnished
30 pursuant to 39-71-704."

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2 NEW SECTION. **Section 3. Effective date -- applicability.** [This act] is effective July 1, 2003, and
3 applies to accidents occurring on or after July 1, 2003.

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